

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Establish
Policies and Rules to Ensure Reliable, Long-Term
Supplies of Natural Gas to California.

Rulemaking 04-01-025
(Filed January 22, 2004)

**ADMINISTRATIVE LAW JUDGES' RULING
REGARDING VARIOUS MOTIONS**

Summary

Today's ruling addresses three motions that were filed in this proceeding. The first is the February 20, 2004 motion of Ratepayers for Affordable Clean Energy (RACE) to intervene in this proceeding. The second is the March 9, 2004 motion of RACE to modify the schedule in this proceeding. The third is the March 12, 2004 motion of the Southern California Generation Coalition (SCGC) requesting permission for interested parties to file reply comments.

Motion to Intervene

According to RACE's motion to intervene, RACE is a coalition made up of various groups that "represent the economic, ecological and environmental justice interests of small ratepayers, particularly under-represented low and fixed income residential ratepayers, as well as other vulnerable customer interests." (Motion to Intervene, p. 2.) RACE is concerned that if the utilities are authorized to procure liquefied natural gas (LNG) on behalf of ratepayers, that such an authorization will result in a number of adverse consequences. RACE points out that it is an active party in R.01-10-024, the electric procurement proceeding.

No one responded to RACE's motion to intervene.

RACE's motion to intervene in this proceeding is granted. We note that RACE, or other interested parties, can participate in a rulemaking proceeding without the need for filing a motion or petition to intervene by simply filing comments in accordance with the rulemaking schedule. (See Commission's Rules of Practice and Procedure, Article 3.5.)

Motion to Modify the Schedule

RACE's March 9, 2004 motion to modify the schedule in this proceeding requests the following changes:

- That the Commission extend the deadline for interested parties to submit their comments by at least one month, i.e., from March 23 to April 29, 2004, so that RACE has adequate time to evaluate the complex, detailed and voluminous filings submitted by the gas utilities.
- That evidentiary hearings should be scheduled.
- That the rulemaking should be modified by reversing Phase I and Phase II so that decisions on policy and rules can be decided before LNG procurement and LNG infrastructure expansion decisions are made on November 1, 2004.

On March 15, 2004, Kern River Gas Transmission Company (Kern River) filed a response in opposition to RACE's motion. Kern River states that it is opposed to RACE's motion because the delays which RACE seeks would substantially delay the consideration of important long-term gas issues that need to be resolved. In addition, reversing the order of Phase I and Phase II would frustrate the utilities' efforts to escape the constraints of their existing interstate pipeline firm transportation commitments.

The normal time for responding to RACE's motion to modify the schedule is 15 days, which would have been March 24, 2004. (See Rule 45.) However, since RACE seeks an extension of the March 23, 2004 date for filing comments on the utilities' proposals, a ruling on RACE's motion before March 23, 2004 is warranted. (Rule 45(h).)

RACE's motion to modify the schedule in this proceeding is denied. This rulemaking was instituted by the Commission on January 22, 2004, and the proposals of the utilities were filed on February 24, 2004. RACE and other parties had sufficient opportunity in January and February to seek an extension of the comment period. RACE also seeks to change the order of the Phase I and Phase II issues. However, the rulemaking is clear about the order in which the Phase I and Phase II issues will be considered. RACE could have raised its motion to modify the schedule at an earlier date, rather than choosing to file its motion two weeks before the due date for the filing of comments.

Rule 14.1 provides that a rulemaking is a "formal Commission proceeding in which written proposals, comments, or exceptions are used instead of evidentiary hearings." Also, Rule 14.2 provides that the Commission may elect to apply a rulemaking to a proceeding "to establish rules, regulations, and guidelines for a class of public utilities...." Thus, it is within the Commission's discretion whether evidentiary hearings are needed in a rulemaking.

For the above reasons, RACE's motion to modify the schedule in this proceeding is denied.

Motion Requesting Permission to File Reply Comments

The schedule in this proceeding currently calls for the interested parties to file comments on the respondents' Phase I proposals on March 23, 2004, and for

the respondents to file replies to the interested parties' comments on April 6, 2004.

SCGC requests that interested parties, along with the respondents, be allowed to file replies to the comments that interested parties will be filing on March 23, 2004. SCGC states that it is common practice for the Commission to allow both the utilities and interested parties to file responses to the interested parties' opening comments. SCGC believes that the additional replies will provide the Commission with expanded views and information about the Phase I issues.

Providing interested parties, as well as the respondents, the opportunity to reply to another interested party's comments will provide the Commission with additional insight into the various Phase I issues. Accordingly, SCGC's motion requesting permission to allow interested parties, as well as the respondents, to file replies to the March 23, 2004 comments of interested parties, is granted. The respondents and interested parties may file replies on or before April 6, 2004 to the comments of interested parties that are to be filed on or before March 23, 2004.

Therefore, **IT IS RULED** that:

1. The February 20, 2004 motion of the Ratepayers for Affordable Clean Energy (RACE) to intervene in this proceeding is granted.
2. The March 9, 2004 motion of RACE to modify the schedule in this proceeding is denied.

3. The March 12, 2004 motion of the Southern California Generation Coalition seeking permission for interested parties to file reply comments is granted.

Any interested party, as well as the respondents, who desire to reply to the comments to be filed by interested parties on or before March 23, 2004, may do so by filing and serving their reply comments on or before April 6, 2004.

Dated March 18, 2004, at San Francisco, California.

/s/ JOHN S. WONG

John S. Wong
Administrative Law Judge

/s/ DAVID K. FUKUTOME

David K. Fukutome
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judges' Ruling Regarding Various Motions on all parties of record in this proceeding or their attorneys of record. In addition, service was also performed by electronic mail.

Dated March 18, 2004, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.